



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO
DISCLOSURE UNDER FOIA**

May 6, 2022

By Electronic Mail

Mary E. Greene
Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: May 2022 Update to Response to April 24, 2020 Letter from the U.S. Environmental
Protection Agency

Dear Ms. Greene:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter as the twenty fourth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency (“EPA” or the “Agency”) regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information (“CBI”) and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.¹

¹ Certain attachments to this letter include CBI, which Birla has designated as such with the stamp “CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA.” Based on a review of relevant LDEQ

Birla Carbon USA, Inc.

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I. North Bend

Since our last update, construction is ongoing at North Bend for installation of equipment required under the Consent Decree. Additionally, Birla's application to modify North Bend's Title V operating permit to include consent decree applicable requirements remains under review with LDEQ. Currently, due to the delays associated with COVID-19, Birla's vendor for the seawater scrubber system and SCR units continues to estimate a two-to-four month delay for various components of the scrubber system. *See Confidential Attachment 1.* The reactor vent scrubber system components have been received and delivered onsite. However, due to delays associated with the global integrated circuit chip shortage and global supply chain issues, the estimated reactor vent scrubber system completion date has been projected to be sometime in early 2023. *See Confidential Attachment 1.*

The mechanical and electrical contractors completed their final construction activities in February 2022. *See Confidential Attachment 2.* The AQCS CEMS certification and stack emissions testing have been delayed several times due to the commissioning of the NOx analyzers not being completed and issues with the dry sorbent injection system. *See Confidential Attachment 1.* The RATA testing, as of this note, is scheduled for the week of May 9, 2022, barring any additional equipment failures or commissioning delays. *See Confidential Attachment 1.* However, the commissioning teams continue to experience delays for certain equipment, primarily the absorber system as well as delays in replacing a critical probe. Birla and the Engineer of Record are exploring all avenues for the repair and replacement of the critical probe. *See Confidential Attachment 1.* Birla estimates continuous operations for the absorber and SCR to be at the end of May 2022 due to the delay issues associated with the NOx analyzers used for feedback control of the SCRs as well as manpower issues with the vendor of the analyzers. *See Confidential Attachment 1.*

The current estimated reactor vent scrubber system completion date is projected to be sometime in early 2023. *See Confidential Attachment 1.* As discussed in our recent updates, the global integrated circuit chip shortage also continues to affect shipment by Birla's vendor of the specialized new ignitors and control equipment associated with the SCRs and reactor vent scrubber system. *See Confidential Attachment 1.* The global chip shortage and supply chain issues continue to affect shipment of ignitors and control equipment as well as the digital control system hardware. Birla and the Engineer of Record are working to improve the schedule wherever possible, and are working with vendors to mitigate the potential impact of any delays in shipment. *See Confidential Attachment 1.* Birla continues to note that the projected completion date remains fluid.

II. Hickok

Hickok² is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

² Kansas State I.D. No. 0670007.


Mary E. Greene

May 6, 2022

Page 3

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Bill Peterson, U.S. EPA Region 7 (by email)
Tracey Casburn, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
Deidre Johnson, LDEQ (by FedEx)
David Buente, Sidley Austin LLP (by email)
Allen Braddock, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2022 - 05 - 04 - North Bend - Letter from Engineer of Record

Confidential Attachment 2 - 2022 - 04 - 21 - North Bend - Email Correspondence from Project Manager

Confidential Attachment 3 - 2022 - 05 - 04 - North Bend - Email Correspondence from Project Manager

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CONFIDENTIAL ATTACHMENT 1

2022-05-04 - North Bend -
Letter from Engineer of Record

Attn: Mark B. Vannice, PE, Project Director
Birla Carbon USA, Inc.
Regional Office Marietta
1800 West Oak Commons Ct
Marietta, GA 30062

Letter: BC-025

Re: Purchase Order No. 2300002188; Notice of Force Majeure Event Update – Status as of May 4TH, 2022

Dear Mr. Vannice:

Reference is made the above Purchase Order and the Professional Services Terms and Conditions (Agreement) and Letters BC-001 dated May 13th, 2020, and BC-002 dated June 17th, 2020. Terms not otherwise defined herein shall have the meaning assigned to them in the Agreement.

In accordance with Article 12(a) of the Agreement Engineer is providing Owner an update to the Force Majeure Event notice of May 13th, 2020. The Force Majeure Event is primarily the domino effect of uncontrolled delays and disruption of the global supply chain the Owner is experiencing from its Vendors supplying material and equipment to the Facility project; and secondarily the potential delay caused by disruptions in the available services to, and mobility of, Engineers' staff. The delays and disruptions to the supply chain as we are informed by notices from the Vendors to you are caused by impacts of the COVID-19 epidemic on the manufacture of materials and equipment. These delays are outside the control and without the fault of Engineer. To the extent these delays experienced by the Vendors affects the timely delivery of our Work that depends on inputs of information and ultimately delivery to the Facility in accordance with the Schedule, we are, or likely will be, seeking extensions on the Schedule for a time reasonably necessary to overcome the effect of the delay and additional compensation as appropriate. We are to the extent possible undertaking reasonable measures to make up for time lost caused by the delay and assisting Owner, to the extent possible, mitigating Vendor impacts.

May 4th, 2022
Mr. Mark Vannice
Page 2

As of November 3rd, we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2nd, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of [REDACTED] equipment have directly affected the project schedule. Currently we are still awaiting the VFDs for the combustion blower motors, which is directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18th and 29^h, 2021, causing a delay of the delivery of the HRSG until March 3rd, 2021. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], delivered the skid in August of 2021, an approximate slip of more than four months over the original delivery date of April 1st.

Additionally, the entire North Bend plant was evacuated the week of August 24^h, 2020, due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8th – 11th, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor [REDACTED] and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

Another extreme weather event that impacted the project was the record cold in February 2021. The site was closed Feb 15th – 17th due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

On August 27^h, 2021, the site began preparing for Hurricane Ida. The site was evacuated August 28th through the 30th. The trade contractors were not able to restaff the job fully immediately due to large portions of their staff having been directly impacted by the hurricane and that were not able to return immediately after the storm. Additionally, the reduced availability and higher prices for fuel and accommodations in the area affected the availability of craft labor.

May 4th, 2022
Mr. Mark Vannice
Page 3

These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

The AQCS project schedule was significantly impacted by Hurricane Ida. Ida had a significant effect on the availability of manpower. The impact from Ida has delayed the project by at least 4 weeks. The execution of the outages was rearranged to mitigate the lost time due to Ida.

The AQCS CEMS certification and stack emissions testing are scheduled to begin as soon as the [REDACTED] NOx analyzers are commissioned. Continuing problems with the [REDACTED] NOx analyzers used for feedback control of the SCR's are ongoing. The issue had been isolated to leaks in the probe. [REDACTED] and Birla are looking at all avenues for repair and replacement. Availability of competent technicians from [REDACTED] is an ongoing issue. [REDACTED] commissioning is searching for alternate suppliers of probes, analyzers and replacement parts. Supply chain issues are exacerbating this.



The vent scrubber project is experiencing delays due to late equipment deliveries. The delivery of the scrubbers provided by [REDACTED] was impacted the Covid 19 pandemic in India. The scrubbers have been received and are on site. The current estimated Vent Scrubber completion date is now early 2023. Birla and [REDACTED] are working to improve the schedule wherever possible. There are supply chain issues with the new ignitors and associated BMS control equipment as well as the DCS hardware. Both are of concern due to the global IC chip shortage. We are working with both vendors to ascertain and improve the availability. The new reactor ignitors and associated BMS are required to safely operate the reactors with the new [REDACTED] Scrubbers.

We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,

[REDACTED]



May 4th, 2022
Mr. Mark Vannice
Page 4

cc: Randy Waskul, Birla



CONFIDENTIAL ATTACHMENT 2

2022-04-21 - North Bend -
Email Correspondence from Project Manager

From: Vannice, Mark <Mark.Vannice@adityabirla.com>

Sent: Thursday, April 21, 2022 11:19 AM

To: Waskul, Randy <Randy.Waskul@adityabirla.com>

Cc: [REDACTED]; [REDACTED]

Subject: N Bend AQC Project Construction

Randy

The Mechanical Contractor(APTIM), completed their final construction activities week ending 2/4/22

The Electrical Contractor(ISC), completed their final construction activities week ending 2/25/22.

Mark B. Vannice, PE

Project Director, EPA 114

North America Region, Aditya Birla Group



Birla Carbon

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C: 610-858-7633 | **E:** mark.vannice@adityabirla.com

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CONFIDENTIAL ATTACHMENT 3

2022-05-04 - North Bend -
Email Correspondence from Project Manager

Sent: Wednesday, May 4, 2022 10:23 AM
To: Waskul, Randy <Randy.Waskul@adityabirla.com>
Subject: EPA 114 - North Bend Air Quality Controls Upgrade

Randy

I am sending you this email to confirm our previous conversations with regard to ongoing issues with the completion of commissioning of the North Bend Air Quality Controls Upgrade Project.

The (3) systems that have not been commissioned and turned over to the plant for operation are,

- SCR Inlet Duct Burner System
- Direct Sorbent Injection & Alkalinity Dosing System
- SCR Emissions Monitoring System

SCR Inlet Duct Burner System

The Duct Burner System is needed to assure that the minimum temperature for NOx removal in the SCR's is achieved

Current Issues:

- Electrical components that required for safe operations and control of the Burner System are back ordered and are not on site.
- Controls issues in the with ability of the Program Logic Controller(**PLC**), to properly control natural gas flows and light off safely, suspected programming issues.

Current Path Forward:

- Electrical components are scheduled to arrive on site week of 5/9/22, once the components arrive on site, they will be installed.
- A meeting is scheduled with [REDACTED] (Duct Burner supplier), on 5/4/22, to resolve the **PLC** issues and determine a path forward.

Direct Sorbent Injection & Alkalinity Dosing System

-

The Direct Sorbent Injection & Alkalinity Dosing System is needed to reduce SO3 and assure that the PH of the absorber return water is in compliance all project requirements

Current Issues:

- The system is not working consistently.
- **PLC** logic issues.
- Reagent feeding issues with the automated feed system.

Current Path Forward:

IAC, the **DSI** system manufacturer, has a representative on site working on correcting feed & **PLC** issues.

SCR Emissions Monitoring System

The SCR Emissions Monitoring System is needed to control SCR process

Current Issues:

- Probe on SCR#1 is not operating properly, SCR#2 is operating consistently
 - Inconsistent O2 reading
 - Inconsistent NOx readings

-

Previous attempts to correct issues

- [REDACTED] has had technicians on site on over (5) separate occasions trying to resolve Probe issue.
- Probe #1 was moved to SCR #2, with Probe #2 moved to SCR#1. SCR#1(with Probe #2), began to operate properly; SCR#2(with Probe #1), did not work properly. Accuracy and operational issues followed Probe #1 week of 4/18/22, received back on site 4/29/22.
- Probe #1 was sent back to manufacturer for inspection
 - A minor manufacturing issue was resolved and Probe sent back to site
 - Probe #1 was reinstalled on SCR#1, SCR#1 still had accuracy and operational issues.

-

Current Path Forward:

- Leadtime to replace Probe #1 is (12)weeks per [REDACTED]
 - Birla Carbon is in negotiations to reduce this lead time and get replacement Probe on site
- [REDACTED] has requested that site personnel perform testing to try to determine cause of Probe #1 issues, test are currently being performed.

If you have any questions or need further clarification please give me a call.

Mark B. Vannice, PE

Project Director, EPA 114
North America Region, Aditya Birla Group



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